



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

C-29A

**VIA FAX**

REPLY TO THE ATTENTION OF:

Edward C. Fitzhenry, Jr.  
Lueders, Robertson and Kozen  
P.O. Box 735  
1939 Delmar Ave.  
Granite City, IL 60240

JUN 10 1996

Re: U.S. v. NL Industries, Inc. et al. Granite City  
Civ. Action No. 91-578-JLF

Dear Mr. Fitzhenry:

I am in receipt of your letter dated June 6, 1996 and I must admit that I am confused by your interpretation of my last letter. EPA is required to consider comments submitted after the close of the public comment period only if they meet the requirements of 40 C.F.R. 300.825(c). I was simply asking that you explain why Granite City feels that the April 1996 Bornschein report meets those requirements.

EPA's preliminary review of the Bornschein report reveals that the text may not be supported by the data attached to the report. As you have acknowledged, there was data compiled that was not included with the report. For instance, in order to evaluate the validity of the report, it is necessary to know the locations of the sampling for each residence, the dates of each sample taken, the key to the data set in Appendix B, as well as any data taken, but not used, in compiling the report. Additionally, Figure 5-2 is missing.

EPA is not taking the position that this report should not be included in the administrative record. Rather, EPA is simply asking Granite City to justify its request to include a comment after the comment period has closed and to provide all data and information gathered or developed in conjunction with this report in order that EPA can adequately evaluate the positions taken by Dr. Bornschein.

EPA again looks forward to hearing from you and is hopeful that when all data has been delivered, EPA can include these items in the administrative record.

If you have any questions feel free to call.

Sincerely,

  
Sean Mulroney  
Assistant Regional Counsel

cc: Brad Bradley, EPA  
Sheri Bianchin, EPA  
Lee Gelman, DOJ  
John H. Grady, DOJ

EPA Region 5 Records Ctr.



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